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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-061]

Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from the People's Republic of China (China). The period of investigation is January 1, 2016, through December 31, 2016. For information on the estimated subsidy rates, *see* the “*Final Determination and Suspension of Liquidation*” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or Davina Friedmann, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3813 or (202) 482-0698, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* on November 6, 2017.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as

¹ See *Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 51396 (November 6, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum² issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope Comments

In accordance with the Preliminary Scope Memorandum, Commerce provided parties an opportunity to provide comments on all issues regarding product coverage (*i.e.*, scope).³ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁴ As a result, the scope of this investigation was modified for the preliminary determination. No further changes to the scope of the investigation were made to this final determination. For a summary of the product coverage comments and rebuttal responses

² See Commerce Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

³ See Commerce Memorandum, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations," dated December 8 31, 2017 (Preliminary Scope Memorandum); *see also* See Commerce Memorandum, "Due Dates for Case and Rebuttal Briefs Regarding the Scope," dated December 11, 2017.

⁴ See *Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 29029 (June 27, 2017) (*Initiation Notice*).

submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁵

Methodology

Commerce is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (Act). For each of the subsidy programs found to be countervailable, we determine that there is a subsidy (*i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient) and that the subsidy is specific. For a full description of the methodology underlying our final determination, *see* the Issues and Decisions Memorandum.

Scope of the Investigation

The merchandise covered by this investigation is generally described as fine denier PSF from China. For a complete description of the scope of this investigation, *see* Appendix II.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available (AFA)

For purposes of this final determination, we relied on facts available, and because certain respondents did not act to the best of their ability in responding to Commerce’s requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts

⁵ *See* Commerce Memorandum, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Final Determinations,” dated concurrently with this determination and hereby adopted by this notice (Final Scope Memorandum).

otherwise available.⁶ A full discussion of our decision to rely on adverse facts available is presented in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Issues and Decision Memorandum.

⁶ See sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Calculation Memoranda.⁷

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated.

In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available.

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the "all-others" rate using the subsidy rates of the two individually investigated respondents. However, we have not calculated the "all-others" rate by weight-averaging the rates because doing so risks disclosure of proprietary information. Therefore, and consistent with Commerce's practice, for the "all-others" rate, we calculated a simple average of the two mandatory respondents' subsidy rates.

Company	Subsidy Rate
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⁷ See Commerce Memoranda, "Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Jiangyin Hailun Chemical Fiber Co. Ltd.; Final Analysis Memorandum," dated January 16, 2017 (Hailun's Final Calculation Memorandum) and "Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Jiangyin Huahong Chemical Fiber Co. Ltd.; Final Analysis Memorandum," dated January 16, 2017 (Huahong's Final Calculation Memorandum).

Jiangyin Hailun Chemical Fiber Co. Ltd. ⁸	38.00 percent
Jiangyin Huahong Chemical Fiber Co. Ltd. ⁹	47.57 percent
All-Others	42.79 percent

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after November 6, 2017, the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for such entries of

⁸ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Jiangyin Hailun Chemical Fiber Co. Ltd.: Jiangyin Bolun Chemical Fiber Co., Ltd. (Bolun); Jiangyin Fenghua Synthetic Fiber Co., Ltd. (Fenghua); Jiangsu Hailun Petrochemicals Co., Ltd. (Hailun Petrochemical); Jiangyin Huamei Special Fiber Co., Ltd. (Huamei); Jiangyin Huasheng Polymerization Co., Ltd. (Huasheng); Jiangyin Huaxing Synthetic Co., Ltd. (Huaxing); Jiangying Huayi Polymerization Co., Ltd. (Huayi); Jiangsu Sanfangxiang Group Co., Ltd. (Sanfangxiang Group); Jiangsu Sanfangxiang International Trading Co., Ltd. (Sanfangxiang Trading); Sanhai International Trading PTE Ltd. (Sanhai); Jiangyin Xingsheng Plastic Co., Ltd. (Xingsheng Plastic); Jiangyin Xingtai New Material Co., Ltd. (Xingtai); Jiangsu Xingye Plastic Co., Ltd. (Xingye Plastic); Jiangsu Xingye Polytech Co., Ltd. (Xingye Polytech); Jiangyin Xingyu New Material Co., Ltd. (Xingyu); Jiangyin Xinlun Chemical Fiber Co., Ltd. (Xinlun); Jiangyin Xinyuan Thermal Power Co., Ltd. (Xinyuan Thermal); and Jiangyin Yunlun Chemical Fiber Co., Ltd. (Yunlun).

⁹ As discussed in the Preliminary Decision Memorandum, Commerce has found Jiangsu Huahong Industrial Group Co., Ltd. to be cross-owned with Jiangyin Huahong Chemical Fiber Co. Ltd.; Jiangyin Hongkai Chemical Fiber Co., Ltd. (Hongkai); Jiangyin Huahong International Trade Co., Ltd. (Huahong International Trade); and Jiangyin Huakai Polyesterer Co., Ltd. (Huakai).

subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 16, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Scope Comments
- V. Application of the Countervailing Duty Law to Imports from the PRC
- VI. Subsidies Valuation Information
- VII. Benchmarks and Discount Rates
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Analysis of Programs
- X. Analysis of Comments
 - Comment 1: Application of AFA to the Electricity Program
 - Comment 2: Export Buyer's Credit Program
 - Comment 3: Market Distortion in the MEG/PTA Industry
 - Comment 4: Input Benchmarks
 - Comment 5: Hailun Verification Minor Corrections
 - Comment 6: Huahong Verification Minor Corrections
 - Comment 7: Exclusion of Finance Leasing and Margin Trading from the Policy Loans Benefit Calculation
 - Comment 8: Treatment of Hailun's Other Types of Financing under the Policy Loan Program
 - Comment 9: PTA for LTAR Benefit
 - Comment 10: Sales Denominator for the Sanfangxiang Group
 - Comment 11: Sales Denominator for Hailun Petrochemical
 - Comment 12: Treatment of Foreign-Purchased Inputs
 - Comment 13: Correction of Calculation Errors for Huahong
 - Comment 14: Correction of Calculation Errors for Hailun
- XI. Recommendation

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

- (1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.
- (2) Low-melt PSF defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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